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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/685,449	10/11/2000	Jeff Chin	F0002-010002	5968

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EXAMINER

COLBERT, ELLA

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/685,449		CHIN ET AL.	
	Examiner		Art Unit	
	Ella Colbert		3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11,17,29-33 and 35-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11,17,29-33 and 35-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/02/05,3/31/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-11, 17, 29-33, and 35 are pending in this communication filed 03/31/06 has been entered as Response to Non-Final Action (Miscellaneous Communication to Applicant).
2. The IDS filed 12/02/05 and 3/31/06 have been considered and entered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claims 1-9, 17, 29-33, and 35-43, 45, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,664,111) Nahan et al, hereafter Nahan in view of (US 5,835,896) Fisher et al, hereafter Fisher.

As per claims 1 and 17, Nahan teaches, A network sales method comprising: presenting, via a first network item information associated with an item on a sales screen to a user and communicating a variable price schedule for the item to the user,

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the variable price schedule including a plurality of price selections for the item (col. 3, lines 1-10 and lines 31-67 and col. 4, lines 46-61). Nahan failed to teach, receiving a reminder command associated with a selection of an entry in the variable price schedule from the user, the reminder command including a price selection from the plurality of the price selections for the item; and notifying the user when the entry in the variable price schedule is reached. Fisher teaches, receiving a reminder command associated with a selection of an entry in the variable price schedule from the user, the reminder command including a price selection from the plurality of the price selections for the item; and notifying the user when the entry in the variable price schedule is reached (col. 6, lines 46-49 and col. 7, lines 1-7). It would have been obvious to one having ordinary skill in the art at the time the invention was made to receive a reminder command associated with a selection of an entry in the variable price schedule from the user, the reminder command including a price selection from the plurality of price selections for the item and to notify the user when the entry in the variable price schedule is reached and to modify in Nahan because such a modification would allow Nahan to have the capability to send an electronic mail notification that contains the relevant merchandise information and the current high bid on the catalog items.

As per claim 2, Nahan failed to teach, The method of claim 1 wherein the entry is a price entry and wherein the notifying notifies the user when the price entry is reached. Fisher teaches, wherein the entry is a price entry and wherein the notifying notifies the user when the price entry is reached (col. 7, lines 42-49). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the entry

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to be a price entry and the notifying notify the user when the notifying notifies the user when the price entry is reached and to modify in Nahan because such a modification would allow Nahan to place a bid and to receive an electronic message when the price entry is reached as expressed in Fisher.

As per claim 3, Nahan teaches, The method of claim 1 wherein the entry is a date entry and wherein the notifying notifies the user when the date entry is reached. (col. 11, lines 1-10 and lines 37-59).

As per claim 4, Nahan teaches, The method of claim 1 wherein the notifying of the user includes notifying the user through a second network with a near-real-time alerting mechanism (col. 2, lines 38-49).

As per claim 5, Nahan failed to teach, The method of claim 1 wherein notifying of the user includes notifying the user through a wireless network. Fisher teaches, wherein notifying of the user includes notifying the user through a wireless network (col. 1, line 40 –col. 2, line 9). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the notifying of the user include notifying the user through a wireless network and to modify in Nahan because such a modification would allow Nahan to bid by telephone and facsimile machine with the submission of bids in real-time.

As per claim 6, Nahan failed to teach, The method of claim 1 wherein the notifying includes presenting a purchase acceptance control to the user. Fisher teaches, the notifying includes presenting a purchase acceptance control to the user (col. 8, lines 24-41). It would have been obvious to one having ordinary skill in the art at

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the time the invention was made to have the notifying include presenting a purchase acceptance control to the user and to modify in Nahan because such a modification would allow Nahan to have a user to accept a purchase by electronic mail (purchase acceptance control).

As per claim 7, Nahan failed to teach, The method of claim 6 wherein the notifying notifies the user through a telephone network and wherein the presenting of the purchase acceptance control requests that the user signal acceptance using dial keys for a telephone connected to the telephone network. Fisher teaches, the notifying notifies the user through a telephone network and wherein the presenting of the purchase acceptance control requests that the user signal acceptance using dial keys for a telephone connected to the telephone network (col. 7, lines 50-65). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the notifying notify the user through a telephone network and wherein the presenting of the purchase acceptance control requests that the user signal acceptance using dial keys for a telephone connected to the telephone network and to modify in Nahan because such a modification would allow Nahan to have a means for communicating by using a telephone instead of electronic mail to accept the purchase.

As per claim 8, Nahan and Fisher failed to teach, The method of claim 1 wherein acceptance of the reminder command in the receiving of a reminder command from the user is contingent on the receipt of contact information in a step of receiving contact information for the user, but wherein the presenting of the item is independent of the receipt of any contact information from the user. It would have been obvious to one

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having ordinary skill in the art at the time the invention was made to have an acceptance of the reminder command in the receiving of a reminder command from the user is contingent on the receipt of contact information in a step of receiving contact information for the user, but wherein the presenting of the item is independent of the receipt of any contact information from the user and to modify in Nahan because such a modification would allow Nahan to allow the user to send a response indicating that the user agrees with the price.

As per claim 9, Nahan failed to teach, The method of claim 1 wherein the receiving of the reminder command is responsive to only a single click on a reminder control. Fisher teaches, wherein the receiving of the reminder command is responsive to only a single click on a reminder control (col. 6, lines 31-38). It would have been obvious to one having ordinary skill in the art at the time the invention was made to receive the reminder command responsive to only a single click on a reminder control and to modify in Nahan because such a modification would allow Nahan to have a button to press for a reminder command.

As per claim 29, Nahan failed to teach, The method of claim1, wherein the presenting of the item information includes: displaying an item identifier for an item on a sale screen and displaying a price box for the item on the sales screen. Fisher teaches, wherein the presenting of the item information includes: displaying an item identifier for an item on a sale screen and displaying a price box for the item on the sales screen (col. 7, lines 24-49, fig.'s 2 and 3. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the presenting of the item

information includes displaying an item identifier for an item on a sale screen and displaying a price box for the item on the sales screen and to modify in Nahan because such a modification would allow Nahan to call up an index of available merchandise by pressing a button and pressing a bid button to send a bid to the electronic auction system for processing.

As per claim 30, Nahan teaches, The method of claim 29 wherein the displaying of the item identifier includes displaying an image of the item on the sales screen and wherein the displaying of the price box displays the price box proximate the image of the item (col. 8, line 1-col. 9, line 60 and Fig. 7).

As per claim 31, Nahn teaches, The method of claim 29 wherein the displaying of the item identifier includes displaying an image on the sales screen and wherein the displaying of the price box displays the price box to overlap the image of the item (col. 8 –Table 1 –col. 10, Table 2).

As per claim 32, Nahan teaches, The method of claim 29 wherein the displaying of the plurality of price choices displays the plurality of choices ms a series of user price selection controls (col. 11, line 60-col. 12, line 35).

As per claim 33, Nahan failed to teach, The method of claim I wherein the communicating of the variable price schedule to the user includes displaying at least one of the user price selection controls as a control that is responsive to a single actuation to place a bid on the item. Fisher teaches, wherein the communicating of the variable price schedule to the user includes displaying at least one of the user price selection controls as a control that is responsive to a single actuation to place a bid on

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the item (col. 7, lines 42-65). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the communicating of the variable price schedule to the user includes displaying at least one of the user price selection controls as a control that is responsive to a single actuation to place a bid on the item and to modify in Nahan because such a modification would allow Nahan to press a "place bid" button to send the bid to the electronic auction system for processing.

As per claim 35, Nahan teaches, The method of claim 29 wherein the price box has one curved edge (see Fig. 7 (176)).

As per claim 36, Nahan teaches, The method of claim 29 wherein the price box has a circular marking near one of its edges (col. 13, lines 3-28).

As per claim 37, Nahan teaches, The method of claim 29 further including displaying price boxes for different items and further displaying price choices for those items on the same screen (Figure 2 shows/displays different prices for an item).

As per claim 38, Nahan teaches, The method of claim 37 further including displaying an image for each of the items on the sales screen (col. 10, lines 1-62).

As per claim 39, Nahan teaches, The method of claim 29 further including the displaying further price information for the item in response to user interaction with the price box (col. 8, lines 1-60).

As per claim 40, this dependent claim is rejected for the similar rationale as given above for claims 37-39.

As per claim 41, Nahan teaches, The method of claim 39 wherein the displaying is responsive to the user locating a pointing device cursor above a screen area associated with the item (col. 7, lines 35-45).

As per claim 42, Nahan teaches, The method of claim 29 wherein the price box further includes an accessorize button that is responsive to user input to retrieve information about items available that complement the item for which the price box is displayed (col. 8, line 26 –col. 9, line 60).

As per claim 43, this dependent claim is rejected for the similar rationale as given above for claims 7-9.

As per claim 45, this dependent claim is rejected for the similar rationale as given above for claims 30, 32, 33, and 43.

As per claim 46, this dependent claim is rejected for the similar rationale as given above for claims 30, 32, 33, 43, and 45.

5. Claims 10, 11, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,664,111) Nahan et al, hereafter Nahan and (US 5,835,896) Fisher et al, hereafter Fisher in view of (US 5,890,138) Godin et al, hereafter Godin.

As per claim 10, Nahan and Fisher failed to teach, The method of claim 1 wherein the presenting of the item information includes presenting the plurality of price selections for the item including a plurality of time-separated price choices from a falling-price schedule. Godin teaches, wherein the presenting of the item information includes presenting the plurality of price selections for the item including a plurality of time-separated price choices from a falling-price schedule (col. 6, lines 50-56). It would

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have been obvious to one having ordinary skill in the art at the time the invention was made to present the item information including presenting the plurality of price selections for the item including a plurality of time-separated price choices from a falling-price schedule and to modify in Nahan because such a modification would allow Nahan to have a falling-price schedule (decreasing price) with the auction continuing until all of the units are sold.

As per claim 11, Nahan and Fisher failed to teach, The method of claim 1 wherein the presenting of the item information includes presenting the plurality of price selections for the item including a present price and at least one future price, and further including displaying a present purchase control button next to the present price and a future purchase control button next to the future price. Godin teaches, wherein the presenting of the item information includes presenting the plurality of price selections for the item including a present price and at least one future price, and further including displaying a present purchase control button next to the present price and a future purchase control button next to the future price (col. 3, lines 48-53). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the presenting of the item information include presenting the plurality of price selections for the item including a present price and at least one future price, and further including displaying a present purchase control button next to the present price and a future purchase control button next to the future price and to modify in Nahan because such a modification would allow Nahan to display either a positive or negative reply about the price of an item.

As per claim 44, this dependent claim is rejected for the similar rationale as given above for claims 10 and 11.

Response to Arguments

6. Applicant's arguments filed 03/31/06 have been fully considered but they are not persuasive.

Issue no. 1: Applicants' argue: none of the citations in Nahan disclose a variable price schedule has been considered but is not persuasive. Response: Nahan discloses a "historical record of prices" which is interpreted as a variable price schedule in col. 4, lines 54-58.

Issue no. 2: Applicants' argue: Applicants respectfully object to taking official notice has been considered but is not persuasive. Response: The Examiner did not take Official Notice for claim 8 and did not incorporate the feature into Rackson et al and Fisher et al in the claim rejection. Therefore, this argument is considered moot.

Issue no. 3: Applicants' argue: The citation in Godin does not disclose that the schedule for the falling prices are presented to the user and the citation does not disclose a future purchase control button has been considered but is not persuasive. Response: It is interpreted from the claim language that Godin teaches the schedule for the falling prices are presented to the user and a future purchase control button in col. 3, lines 48-52 and col. 6, lines 50-56. The browser is interpreted as being used as a control button although it is not usually called a control button. A person can control the browser and where it goes on the Internet and a website.

Conclusion: Applicants' are respectfully requested to distinctly point out and to claim in the independent claims the inventive concept of the Applicants' invention.

The Examiner is entitled to give limitations their broadest reasonable interpretation in light of the Specification (see below):

2111 Claim Interpretation; Broadest Reasonable Interpretation [R-1]

>CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION

During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969).<

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Inquiries


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Tuesday-Thursday, 6:30AM-4:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 571-272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

June 12, 2006


ELLA COLBERT
PRIMARY EXAMINER